

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

William Gilbert

Case No.

Case: 2:22-mj-30080

Judge: Unassigned,

Filed: 02-17-2022 At 04:29 PM

USA v. SEALED MATTER (CMP)

(MLW)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 19, 2020 through June 26, 2020 in the county of Oakland in the
Eastern District of Michigan, the defendant(s) violated:

Code Section

18 U.S.C. § 1343

18 U.S.C. § 1028A

Offense Description

Wire Fraud

Aggravated Identity Theft

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: February 16, 2022

City and state: Detroit, MI


Complainant's signature

Special Agent Randal Cummings

Printed name and title


Judge's signature

Anthony P. Patti, U.S. Magistrate Judge

Printed name and title

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

I, RANDAL CUMMINGS, being duly sworn, depose and state as follows:

- 1) I am a Special Agent with Homeland Security Investigations ("HSI"), of the United States Department of Homeland Security ("DHS"). I am assigned to the Special Agent in Charge ("SAC"), Office of Investigations, in Detroit, Michigan. I have been employed with HSI since August 2010. I have successfully completed the Criminal Investigator Training Program and the Immigration and Customs Enforcement Special Agent Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia. I was previously employed from September 2005 through August 2010 with the U.S. Department of Labor as a Lead Criminal Investigator. I received a Bachelor's Degree in Criminal Justice from Michigan State University. I have been a member of the Southeast Michigan Cyber Fraud Task Force since December 2014.
- 2) The information set forth in this affidavit is based upon my training, knowledge, experience, and investigation. This affidavit does not contain every fact that I have learned during the investigation, but instead includes only those facts I believe establish the requisite probable cause in support of a criminal complaint against William Gilbert.

GENERAL ALLEGATIONS

Payroll Protection Program Loans

- 3) The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.
- 4) In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition,

businesses applying for a PPP loan must provide documentation showing their payroll expenses.

- 5) A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating lender funds the PPP loan using its own monies, which are 100% guaranteed by Small Business Administration (“SBA”). Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, is transmitted by the lender to the SBA in the course of processing the loan.
- 6) PPP loan proceeds must be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

Economic Injury Disaster Loans

- 7) The Economic Injury Disaster Loan (“EIDL”) program is an SBA program that provides low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters.
- 8) The CARES Act authorized the SBA to provide EIDLs of up to \$2 million to eligible small businesses experiencing substantial financial disruption due to

the COVID-19 pandemic. In addition, the CARES Act authorized the SBA to issue advances of up to \$10,000 to small businesses within three days of applying for an EIDL. The amount of the advance is determined by the number of employees the applicant certifies having. The advances do not have to be repaid.

- 9) In order to obtain an EIDL and advance, a qualifying business must submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. In the case of EIDLs for COVID-19 relief, the 12-month period was that preceding January 31, 2020. The applicant must also certify that all of the information in the application is true and correct to the best of the applicant's knowledge.
- 10) EIDL applications are submitted directly to the SBA and processed by the agency with support from a government contractor, Rapid Finance. The amount of the loan, if the application is approved, is determined based, in part, on the information provided in the application about employment, revenue, and cost of goods, as described above. Any funds issued under an EIDL or advance are issued directly by the SBA. EIDL funds can be used for payroll expenses, sick leave, production costs, and business obligations, such as debts,

rent, and mortgage payments. If the applicant also obtains a loan under the Paycheck Protection Program, the EIDL funds cannot be used for the same purpose as the Paycheck Protection Program funds.

DETAILS OF INVESTIGATION

- 11) On or about a date in 2021, your Affiant and Task Force Officer (TFO) Erik Hamilton spoke with a Source of Information (SOI) who stated that William Gilbert was possibly involved in fraudulently obtaining loans that were being issued by the U.S. Government for businesses affected during the Covid pandemic. The SOI has provided information to your Affiant as it relates to the investigation of Gilbert. In connection with this investigation, the SOI has provided information to your Affiant that has been independently verified. Your Affiant has utilized the SOI in the past and found the information provided to be credible.
- 12) Your Affiant was provided information that Gilbert stated he owns and operates Advantage Construction, which he claimed to have started in 2011, while at his parent's house on Valley View in Romulus, Michigan. Gilbert stated that he has also used the address of 4883 Trailview, West Bloomfield, Michigan, to operate the business. Gilbert stated that, at no time has he used any other address(es) to run or operate Advantage Construction. Gilbert stated

that he does not have any tools or equipment; however, subcontracts all his jobs and takes a percentage of the profits.

- 13) Law Enforcement Database search disclosed that Gilbert is associated with the address located at 4883 Trailview, West Bloomfield, Michigan. Community Choice Realty provided information that Gilbert rented this home and was evicted from this residence for failure to pay rent in approximately September 2019.
- 14) Department of Licensing and Regulatory Affairs (LARA) search of corporations related to Advantage Construction found that articles of incorporation were originally filed with LARA in 2011, and that the resident agent was William Gilbert at 45887 Mound Rd, Utica, Michigan. On or about December 21, 2015, a restoration of good standing was filed with LARA showing a registered agent of William Gilbert, with an address of 45887 Mound Road, Utica, Michigan, changing the company name to Advantage Construction Company, LLC.
- 15) Law Enforcement Database search disclosed that 45887 Mound Road is occupied by E. Gilbert and Sons, Inc. TFO Hamilton spoke with the owner, Lester Gilbert, who stated that Advantage Construction Company, LLC (ACC) was owned and operated by his brother William Edgar Gilbert. William Edgar

Gilbert died in November 2016, at which time Lester Gilbert stated that ACC dissolved.

- 16) On or about November 26, 2019, an individual bearing the same first and last name as the deceased former owner of ACC filed a restoration of good standing with LARA with an address change of 4883 Trailview, West Bloomfield, Michigan. The registered agent was listed as William Gilbert.
- 17) Your Affiant contacted Lester Gilbert in January 2022. Lester Gilbert stated that ACC was involved in demolition and had two or three employees, including his brother William Edgar Gilbert. ACC was his brother's company and cease to exist once he passed away in 2016. Lester Gilbert was not aware that a restoration of good standing was filed in 2019 for ACC with LARA, nor does he know the individual, who has the same first and last name as his deceased brother, William Gilbert listed as the current resident agent of ACC.
- 18) Your Affiant reviewed open-source Paycheck Protection Loan (PPP Loan) Data which disclosed that Advantage Construction Company LLC (ACC) in West Bloomfield, Michigan, was the beneficiary of a \$138,000 loan approved on or about June 22, 2020. The lender listed was Bank of America.
- 19) U.S. Small Business Administration (SBA) provided Loan Authorization and Agreement for SBA Loan ending 8006 which disclosed that on or about June 24, 2020, the SBA authorized a \$150,000 loan to ACC of 4883 Trailview Dr,

West Bloomfield, Michigan 48322. The Loan Authorization and Agreement was Docusigned by SR the purported owner of ACC.

- 20) SBA Intake Application Summary, with a date created of June 19, 2020, Business Information shows that ACC is a construction company established on September 12, 2011, with a primary business address of 4883 Trailview Dr, West Bloomfield, Michigan 48322; and a business phone as (517) 295-7601. The owner of ACC is listed as SR, residential address of 18605 Schaefer, Detroit, Michigan 48235; SSN: Ending in 2955, and a Date of Birth: XX/XX/1950. The listed EIN/SSN for Sole Proprietorship is 843829790.
- 21) SBA Intake Application Summary, with a date created of June 19, 2020, Business Information also shows that as of January 31, 2020, ACC had 11 employees, had a gross revenue for the 12 months prior to the date of the disaster (January 31, 2020) of \$857,900, and cost of goods sold for the 12 months prior to the date of the disaster (January 31, 2020) of \$200,540.
- 22) Law Enforcement Database search disclosed that the listed owner and Docusigner of the above-mentioned SBA Loan ending in 8006 resides in Utah.
- 23) SBA Bank Account records show Bank of America checking account ending in 2236 as the authenticated account to receive the funds on behalf of ACC.

- 24) Law Enforcement Database search disclosed that the phone number (517) 295-7601 has been registered to William Gilbert at 4883 Trailview, West Bloomfield, Michigan.
- 25) Bank of America Customer Profile disclosed that ACC has three (3) accounts ending 2252, 2236, and 2249 all opened in December 2019. Profile information included an address of 4883 Trailview, West Bloomfield, Michigan 48322; TIN/SSN: ending 1662; Phone Numbers: (517) 599-6650 and (517) 885-8140; and Email: braynchild@gmail.com.
- 26) Google Subscriber information for the Email: braynchild@gmail.com disclosed that this Gmail account belongs to William Gilbert at 253 Auburn, Inkster, Michigan 48141.
- 27) Law Enforcement Database search disclosed that Gilbert is associated with the address at 253 Auburn, Inkster, Michigan 48141. A SOI stated during an interview that Gilbert's chat username is "brainchild."
- 28) A review of Bank of America account records for account ending 2236 disclosed a SBAD Treas 310 for ACC deposit of \$10,000 on June 23, 2020; a CARES Act Paycheck Protection Program deposit of \$138,000 on June 26, 2020; and a SBAD Treas 310 for ACC deposit of \$149,900 on June 26, 2020, totaling approximately \$297,900.


- 29) The economic injury disaster loan (EIDL) is a loan from the SBA to offset financial hardships due to the Covid pandemic. A deposit to an account maintained at a financial institution with the description of SBAD Treas 310 represents the receipt of funds from the SBA.
- 30) A review of account ending 2236 transactions disclosed that from June 1, 2020, through July 31, 2020, there were withdrawals totaling approximately 290,700. Expenditures from the loan do not appear to be related to payroll.
- 31) A review of Bank of America account records by your Affiant disclosed the following withdrawals that appeared inconsistent with the purpose of the PPP Program such as payroll, rent, mortgage interest, or utilities, or EIDL loans designated for working capital expenses.
- 32) Bank of America statements for the account maintained by William Gilbert Titled to ACC disclosed the following: Zelle payments to Gilbert, Online bank Transfers to Gilbert, and Cash Withdrawals totaling approximately \$69,907; vehicle loan payments for Gilbert totaling approximately \$7,284; Zelle payments to unnamed individuals and a logistic company totaling approximately \$27,348; payments to Harris Na, ATT Web, and Global Lending on behalf of known associates of Gilbert totaling approximately \$12,025; Insurance payments to Progressive totaling approximately \$50,000; payment to a law firm totaling approximately \$5,500; and payments to a

known associate of Gilbert totaling approximately \$77,096. Bank of America Card ending 0970 disclosed approximately \$41,557 in miscellaneous withdrawals such as hotels, gas, restaurants, Apple.com, flights, shops, and cash app. Bank of America servers are not located in the State of Michigan.


- 33) Further examination of Bank of America account records for account ending in 2236 disclosed that deposits were made back into the account with a description of “ACH Return” or “Misc. Credit Adjustment on 09/09/20” during the months of September and October for \$5,500, \$861.14, \$497.20, \$25,000, and \$25,000. These were the exact amounts of payments previously made from account ending 2236 to a law firm, Harris Na, ATT Web, and Progressive (2), respectively.
- 34) On or about November 4, 2021, your Affiant contacted SR via telephone regarding SBA Loan ending 8006. SR stated that he/she was a victim of identity theft and never applied for or authorized anyone to apply for an SBA loan using SR’s personal information. SR is not the owner of ACC. SR has never lived in Michigan, maintained a residence in Michigan, and does not know anyone from Michigan. SR did not authorize any funds from an SBA loan to be wired to a Bank of America account, nor benefit in any way from SBA loan ending 8006.

- 35) SBA provided additional documents that disclosed on or about June 22, 2020, a duplicate application was filed under the business name Advantage Construction Company LLC (ACC). The SBA Intake Application Summary Business Information shows that ACC is a construction company established on March 11, 2011, with a primary business address of 4883 Trailview Dr, West Bloomfield, Michigan 48322; and a business phone as (517) 295-0344. The owner of ACC is listed as William Gilbert, residential address of 4883 Trailview, West Bloomfield, Michigan 48322; SSN: Ending in 0313, and a Date of Birth: XX/XX/1987. The listed EIN/SSN for Sole Proprietorship is 843829790.
- 36) SBA Intake Application Summary, with a date created of June 22, 2020, Business Information also shows that as of January 31, 2020, ACC had 22 employees, had a gross revenue for the 12 months prior to the date of the disaster (January 31, 2020) of \$895,900, and cost of goods sold for the 12 months prior to the date of the disaster (January 31, 2020) of \$285,000.
- 37) SBA provided Rapid Decision document and Case Notes disclosed that the loan request created date of June 22, 2020, for ACC with the owner listed as William Gilbert was denied based on duplicate application.
- 38) Based on the above, your Affiant has probable cause to believe that William Gilbert, within the Eastern District of Michigan, committed Wire Fraud by

fraudulently receiving funds provided by Bank of America into his account at Bank of America in violation of Title 18 U.S.C. § 1343. Your Affiant also believes that probable cause exists to establish that William Gilbert committed aggravated identity theft by using, without lawful authority, a means of identification of another person during and in relation to the crime of Wire Fraud, in violation of 18 U.S.C. § 1028A.


RANDAL CUMMINGS
Special Agent
U.S. Department of Homeland Security
Homeland Security Investigations

Sworn to before me and signed in my presence
and/or by reliable electronic means.


Anthony P. Patti February 16, 2022
United States Magistrate Judge